

A2  
C1  
conf

m is 0 or 1;

R<sup>3</sup> is hydrogen; and

R<sup>4</sup> and R<sup>5</sup> are the same;

#### REMARKS

Claims 1-23 are pending in the above-application and have been subjected to restriction requirement under 35 U.S.C. §§121 and 372 as follows:

Group I, Claims 1-23, "drawn to compound, of Formula I wherein X and Y are nitrogens, namely triazine, composition, process making and method of use", and

Group II, Claims 1-23, "drawn to compound, of Formula I wherein X or Y is nitrogen and the other CH, drawn to pyrimidine, composition, process of making and method of use".

Pursuant to the restriction requirement, the Office Action alleges that the above-identified application contains two inventions and has required applicants to make an election between Group I and Group II.

In order to be responsive to the restriction requirement, applicants elect, without traverse, the subject matter of Group II, that is Claims 1-23, drawn to compounds of Formula I, wherein one of X and Y is N and the other is CH, compositions, process of making and method of use thereof for continued examination herein.

In addition, pursuant to the restriction requirement Claims 1, 4 and 5 have been amended to be in accordance with the election by application. Further Claim 5 has been amended to correct obvious grammatical errors, such as punctuation errors.

No new matter has been added to the application by the amendment.

**BEST AVAILABLE COPY**

A marked up version showing the changes made to the claims by the current Amendment is attached hereto. The attached page is captioned "Version with markings to show changes made."

Applicants have not abandoned the non-elected subject matter and reserve the right to file a divisional application directed thereto.

Wherefore, the present case is deemed to be in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



Mark J. Cohen

Registration No. 32,211

Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343

MJC:lf

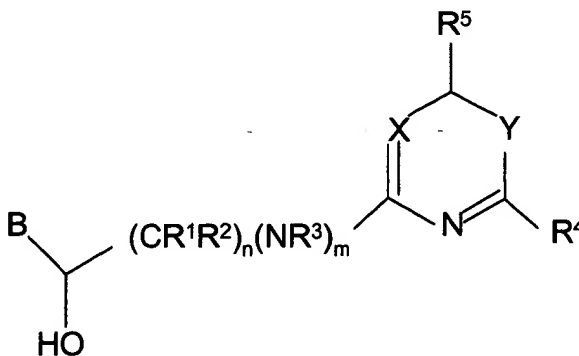
**BEST AVAILABLE COPY**

**"VERSION WITH MARKINGS TO SHOW CHANGES MADE"**

**IN THE CLAIMS:**

Claims 1, 4 and 5 have been amended as follows:

1. (Amended) Compounds of formula (1)



(1)

wherein

B is optionally substituted aryl;

R<sup>1</sup> and R<sup>2</sup> are the same or different and are independently selected from hydrogen or C<sub>1-3</sub> alkyl;

n is 1 or 2, preferably n is 1;

m is 0 or 1;

R<sup>3</sup> is hydrogen or acyl;

R<sup>4</sup> and R<sup>5</sup> are the same or different and are independently selected from amino, alkylamino, dialkylamino, arylamino and C<sub>2-8</sub> cycloalkylamino;

one of X and Y [are independently selected from] is CH [or] and the other is N [provided at least one of X and Y is N] and salts thereof, solvates thereof, pharmaceutically acceptable derivatives thereof, prodrugs thereof, tautomers thereof and/or isomers thereof.

**BEST AVAILABLE COPY**

4. (Amended) A compound of formula (1) according to Claim 1 wherein X is CH, [ & ] and Y is N and m is 0.

5. (Amended) A compound of formula (1) according to Claim 1 wherein B is optionally substituted phenyl;

R<sup>1</sup> is hydrogen and R<sup>2</sup> is selected from hydrogen [or] and C<sub>1-3</sub> alkyl;

n is 1;

m is 0 or 1;

R<sup>3</sup> is hydrogen; and

R<sup>4</sup> and R<sup>5</sup> are the same;

[one of X and Y is N and the other is CH].

**BEST AVAILABLE COPY**